

**CHAPTER NO. 805**

**SENATE BILL NO. 2313**

**By Springer**

Substituted for: House Bill No. 2764

By Winningham, Williams, Davidson, White, Sands

AN ACT To amend Tennessee Code Annotated, Section 49-2-301(f), relative to duties assigned to superintendents.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-2-301(f), is amended by deleting subdivision (33) in its entirety and substituting instead the following:

(33) The director may dismiss any employee under the director's jurisdiction for incompetence, inefficiency, insubordination, improper conduct or neglect of duty, after giving the employee, in writing, due notice of the charge or charges and providing a hearing; provided, however, that no nontenured, licensed employee under the director's jurisdiction shall be dismissed without first having been given, in writing, notice of the charge or charges, an opportunity for a full and complete hearing before an impartial hearing officer selected by the board of education, an opportunity to be represented by counsel, an opportunity to call and subpoena witnesses, an opportunity to examine all witnesses and the right to require that all testimony be given under oath. Factual findings and decisions in all dismissal cases shall be reduced to written form and delivered to the affected employee within ten (10) working days following the close of the hearing. Any nontenured, licensed employee desiring to appeal from a decision rendered in favor of the school system shall first exhaust the administrative remedy of appealing the decision to the board of education within ten (10) working days of the hearing officer rendering written findings of fact and conclusions to the affected employee. Upon written notice of such appeal being given to the director, the director shall prepare a copy of the proceedings, transcript, documentary and other evidence presented, and transmit the same within twenty (20) working days of receipt of notice of appeal to the board of education. The board shall hear the appeal on the record and no new evidence shall be introduced. The affected employee may appear in person or by counsel and argue why the decision should be modified or reversed. The board may sustain the decision, send the record back if additional evidence is necessary, revise the penalty or reverse the decision. Before any such charges shall be sustained or punishment inflicted, a majority of the membership of the board shall concur in sustaining the charges. The members of the board shall render the decision on the appeal within ten (10) working days after the conclusion of the hearing. The director of schools shall also have the right to appeal any adverse ruling by the hearing officer to the board under the same conditions as are set out herein. Any party dissatisfied with the decision rendered by the board of education shall have the right to appeal to the chancery court in the county where the school system is located within twenty (20) working days after receipt of notice of the decision of the board. It shall be the duty of the board of education to cause to be transmitted the entire record and other evidence in the case to the court. The review of the court shall be de novo on the record of the hearing held by the hearing officer and reviewed by the board.


SECTION 2. This act shall take effect July 1, 1998, the public welfare requiring it.

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

PASSED: April 8, 1998

APPROVED this 24th day of April 1998

  
DON SUNDQUIST, GOVERNOR